

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
CESA #12, EMPLOYEE COUNCIL
Involving Certain Employees of
COOPERATIVE EDUCATIONAL
SERVICE AGENCY #12

Case I
No. 31447 ME-2206
Decision No. 20944

ORDER DENYING MOTION TO PROHIBIT
COMMUNICATION WITH WITNESS

The above-named petitioner having filed with the Commission a petition, requesting that the Commission determine whether a majority of the employees in the alleged bargaining unit desire to be represented by an exclusive bargaining representative; and hearing in the matter having been held on August 15, 16 and 17, 1983, and further hearing having been set for September 13 and 14, 1983; and on August 23, 1983, CESA #12 having filed a Motion to Prohibit Communication with Witness; and on August 29, 1983, CESA #12 Employee Council having filed a reply seeking denial of said Motion; and the Examiner being advised in the premises makes and issues the following

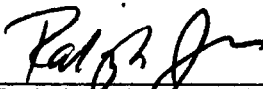
ORDER

That the Motion to Prohibit Communication with Witness be, and the same hereby is, denied.

Dated at Madison, Wisconsin this 30th day of August, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Raleigh Jones, Examiner

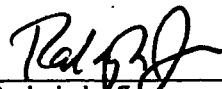
MEMORANDUM ACCOMPANYING ORDER DENYING MOTION
TO PROHIBIT COMMUNICATION WITH WITNESS

CESA #12's Motion to Prohibit Communication with Witness seeks to prohibit direct and indirect communications between the CESA #12 Employee Council and their agents and Ms. C.G. Shaffer, one of the employees challenged by the employer as being a supervisory employee and not having a community of interest with the other employees in the proposed unit. Ms. Shaffer had completed her testimony on direct examination and was being cross-examined by the employer's counsel at the time of adjournment on August 17, 1983. She will continue to be cross-examined upon the resumption of the hearing on September 13, 1983. The purpose of the Motion is to prohibit rehabilitative preparation during the period of the adjournment.

A representation case is a "Class 1 proceeding" within the meaning of Sec. 227.01(2), Stats. As a result, the Commission has substantial discretionary authority in determining the appropriateness of a unit and no sanctions or penalty results. The employer has yet to complete cross-examination of the witness and will be given further opportunity to rebut Ms. Shaffer's testimony after her redirect examination is completed. Therefore, every opportunity remains for the employer to impeach the testimony of the witness. Since a representation hearing is non-adversary in nature, the Examiner has denied the Motion to Prohibit Communication with Witness.

Dated at Madison, Wisconsin this 30th day of August, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Raleigh Jones, Examiner